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SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

SEP 13 2016

E. Rodriguez

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

Case No.: RIC 1611766-1

COMPLAINT;
DEMAND FOR JURY TRIAL

JEREMY SWANSON, individually and
as successor-in-interest to decedent
BARRY SWANSON; JOSH SWANSON,
individually and as successor-in-interest
to decedent BARRY SWANSON; LESLI
SWANSON-HARVEY, individually and
as successor-in-interest to decedent
BARRY SWANSON; MICHAEL
ANDERSEN, individually and as
successor-in-interest to decedent RICKY
ANDERSEN; CHAD ANDERSEN,
individually and as successor-in-interest
to decedent RICKY ANDERSEN; and
BROOKE ANDERSEN, individually and
as successor-in-interest to decedent
RICKY ANDERSEN;

Plaintiffs,

1. Negligence per se for failure to perform mandatory duty (Gov. Code § 815.6)
2. Negligent hiring, supervision, and/or retention of employee (Gov. Code §§ 815.2 and 820)
3. Negligence

SHERNOFF BIDART
ECHEVERRIA BENTLEY
LAWYERS FOR INSURANCE POLICYHOLDERS





1
2 vs.

3 COUNTY OF RIVERSIDE, a
4 governmental entity; CITY OF
5 CORONA, a governmental entity, on its
6 own behalf and on behalf of its
7 departments, including but not limited
8 to the CORONA POLICE
9 DEPARTMENT; ADT LLC d/b/a ADT
10 SECURITY SERVICES, a Delaware
11 limited liability company; HOME
12 DEFENDER, INC., an Indiana
13 corporation; and DOES 1-100, inclusive,

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15 Defendants.
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I.

INTRODUCTION

1. Under California law, mandatory duties are imposed on public entities for taking a person into custody on an involuntary 72-hour hold at a mental health facility for posing a danger to themselves or others. (Cal. Welf. & Inst. Code § 5150, *et seq.*) These mandatory duties were enacted not only to protect the person being taken into custody, but also to protect the public at large from dangerous or mentally unstable persons.

2. In September 2015, employees of the County of Riverside and the City of Corona failed to abide by their mandatory duties causing the tragic death of three men.

3. On September 15, 2015, after Brandon Martin ("Brandon")—a former star baseball player and first round draft pick in the Major Leagues—had attempted to murder his mother twice in as many days, and having knowledge of other violent attacks on his family, the Corona Police Department took Brandon to a county-designated mental health facility for an involuntary hold pursuant to Welfare and Institutions Code section 5150.

4. Upon learning that Brandon would not be arrested, Melody Martin called ADT LLC d/b/a ADT Security Systems to have an alarm installed in the Martin home.

5. Employees of the County of Riverside failed to evaluate Brandon upon taking him into their custody as they are required to do. (Cal. Welf. & Inst. Code § 5152.) Rather, they left him waiting in the waiting room before simply discharging him for lack of space before expiration of the 72 hour period. Pursuant to its mandated duties, the County of Riverside was required to evaluate Brandon promptly upon his arrival, provide him with ongoing treatment and evaluation, and was required to have a treating psychiatrist deem him suitable for release based on personal observations if they were going to release Brandon early. (Welf. & Inst. Code §§ 5150, 5152.) The County of Riverside and City of Corona failed to comply with these mandatory duties.



1 6. Upon discharging Brandon early on September 17, 2015, Riverside Mental
2 Health provided Brandon with a bus pass to return to the same home where in the prior
3 week he twice attempted to kill his mother.

4 7. The actions taken by the employees of the County of Riverside were
5 contrary to specific mandated duties under Section 5150, *et seq.*, which were
6 implemented to protect not only the person being taken into custody but also the public
7 from dangerous persons.

8 8. Melody Martin pleaded with Riverside Mental Health to keep Brandon at
9 their facility and not to release him early. Ignoring her pleas, they released Brandon and
10 failed to inform Melody Martin that Brandon was given a bus pass to return to her
11 home.

12 9. Following his release, Brandon used the bus pass and returned to the
13 Martin home. Present at the home upon Brandon's arrival were Michael Martin
14 (Brandon's father), Ricky Andersen (Brandon's uncle), and Barry Swanson (a contractor
15 who was in the process of installing a new alarm system). Immediately upon arriving at
16 the home, Brandon smashed his wheelchair-bound father's head in with a baseball bat,
17 killing him instantly. Upon hearing the commotion, the ADT alarm installer, Barry
18 Swanson—who had never before met any member of the Martin family—tried to stop
19 the attack. Brandon then attacked Barry Swanson with the baseball bat, killing him as
20 well.

21 10. Ricky Andersen tried to intervene to stop the attack. Brandon beat Ricky
22 Andersen with the baseball bat, and dragged him into the garage. Thereafter, Brandon
23 stole the three men's cell phones, Barry Swanson's wallet, and Michael Martin's truck.

24 11. Barry Swanson was on the phone with Home Defender, LLC, a contractor
25 for ADT LLC, setting up the Martin security system when the attack occurred. The call
26 was recorded, and the attack can be heard. Despite being an alarm and security
27 company and knowing the attack was ongoing, neither ADT LLC nor Home Defender,
28 Inc. alerted authorities.

14. Decedent Barry Swanson left behind three children: Jeremy Swanson, Josh Swanson and Lesli Swanson-Harvey. Decedent Ricky Andersen left behind three children: Michael Andersen, Chad Andersen, and Brooke Andersen. These deaths were tragically caused by the failures of the employees of the County of Riverside, City of Corona, ADT LLC, and Home Defenders, Inc.

THE PARTIES

17. At all relevant times Michael Andersen, Chad Andersen, and Brooke Andersen (collectively, the "Andersens") were residents of the County of Orange. The Andersens are the sole surviving children of decedent Ricky Andersen. The Andersens

1 are acting both individually, and as the successors-in-interest to the estate of Ricky
2 Andersen. An affidavit as required by California Code of Civil Procedure Section 377.32
3 will be filed in this action. The Andersens therefore proceed both on an individual basis,
4 and as successors-in-interest to the claims of Ricky Andersen.

5 18. The Andersens are the sole surviving heirs of Ricky Andersen, and have
6 standing to bring a wrongful death action for the death of Ricky Andersen under
7 California Code of Civil Procedure section 377.60.

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9 **B. Defendants**

10 19. At all relevant times, Defendant County of Riverside, is, and was, a
11 governmental entity. The appropriate governmental claims for each plaintiff were
12 timely filed with the County of Riverside on March 14, 2016 pursuant to California
13 Government Code section 910. The County of Riverside rejected the claims of each
14 plaintiff on April 5, 2016.

15 20. At all relevant times, Defendant City of Corona, is, and was, a
16 governmental entity located in the County of Riverside. The appropriate governmental
17 claims for each plaintiff were timely filed with the City of Corona on March 14, 2016
18 pursuant to California Government Code section 910. The City of Corona rejected the
19 claims of each plaintiff on April 28, 2016.

20 21. At all relevant times, Defendant ADT LLC d/b/a ADT Security Services
21 ("ADT LLC"), is, and was, a limited liability company organized under the laws of the
22 State of Delaware, and doing business in the City of Corona, County of Riverside, and
23 State of California as ADT Security Systems.

24 22. At all relevant times, Defendant Home Defenders, Inc., is, and was, a
25 corporation duly organized and existing under and by virtue of the laws of the State of
26 Indiana, and was, and is, doing business in the City of Corona, County of Riverside,
27 and State of California.

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23. The true names and capacities, whether individual, corporate, associate or otherwise, of defendants Does 1-100, inclusive, and each of them, are unknown to plaintiffs, who thereby sue these defendants by such fictitious names, and will ask leave of this court to amend this complaint when the same shall have been ascertained.

Plaintiffs are informed and believe and upon that basis allege that each defendant named herein as a Doe is responsible in some manner for the events and happenings referred to herein which proximately caused injury to plaintiffs as hereinafter alleged.

24. Plaintiffs are informed and believe and on that basis allege that at all times mentioned herein the defendants, and each of them, were the agents, joint venturers, servants, employees, assistants, and consultants of each other, and as such were acting within the course, scope, and authority of said agency, joint venture, and employment, and that each and every defendant, when acting as a principal, was negligent and reckless in the selection, hiring, entrustment, and supervision of each and every other defendant as an agent, servant, employee, assistant, or consultant.

III.

FACTUAL ALLEGATIONS

A. Brandon Martin was a star baseball player who had mental health issues from drug and alcohol abuse.

25. Brandon Martin of Corona was a star baseball player in high school. At 17 years old, Brandon was drafted 38th overall in the 2011 Major League Baseball draft by the Tampa Bay Devil Rays. Brandon played his first season in the minors in Tampa Bay where he lead the team in runs and RBIs.

26. Following his first season, Brandon returned to California around November 2011. Upon arriving in California, Brandon rented a house in Orange County, hosting daily parties fueled by alcohol and illicit drugs.

27. In the spring of 2012, Brandon returned to Tampa Bay for his second season. Shortly after the season started, Brandon broke his finger. Tampa Bay placed Brandon on



1 the disabled list for the remainder of the season while his finger recovered. Although
2 Brandon stayed in Tampa Bay to recover, he continued his partying lifestyle.

3 28. Brandon returned to Tampa Bay for the 2013 season. During the 2013 season,
4 Brandon failed a drug test, testing positive for marijuana. Around this time, Brandon's
5 behavior became increasingly rude and disrespectful, leading to internal problems within
6 the Tampa Bay organization.

7 29. Following the 2013 season, Brandon returned home and lived with his
8 parents, Michael and Melody Martin. Brandon continued to party, regularly consuming
9 alcohol and drugs. His relationship with his parents deteriorated.

10 30. In November 2013, Brandon went with his family to watch his older brother,
11 Sean Martin, play football for Oregon State, and plaintiff Chad Andersen went with them.
12 Throughout the trip, Brandon was agitated and erratic, and made several comments about
13 illegal drugs. Before the start of the 2014 baseball season, Brandon had a heated argument
14 with a coach. As a result of this argument, and Brandon's antics during the 2013 season,
15 Tampa Bay released Brandon with the understanding that Brandon would take some time
16 off to seek help. Tampa Bay explained to him that when he had rehabilitated, Brandon
17 would then need to call the organization to apologize; upon doing so, they would put him
18 back on the roster. Brandon never returned to resume his career in professional baseball.

19 31. Brandon returned to his parents' home following his release, continuing his
20 drug-and-alcohol fueled unpredictability. Brandon also began displaying irrational hatred
21 and anger towards his African American father, Michael Martin. Brandon often made
22 racially-charged comments to Michael, even though Brandon is of mixed race. To support
23 his drug and alcohol addictions, Brandon began selling his personal items, including selling
24 his expensive car. In addition to marijuana, alcohol, and cocaine, Brandon had started
25 taking heroin.

26 32. In the summer of 2014, Brandon punched his wheelchair bound father in the
27 face several times, causing Michael's face to swell and bruise. Michael called the police
28 following the incident, and Officer Lopez of the Corona Police Department responded to



1 the call. Officer Lopez, who was familiar with Brandon's reputation as a star baseball
2 player, did not arrest Brandon. Rather, Officer Lopez explained to Michael and Melody the
3 repercussions to Brandon's career if he were arrested. Because Brandon was unstable,
4 Melody and Michael did not return to their house for a few nights until after Michael was
5 able to obtain a temporary restraining order against Brandon.

6 33. Following issuance of the restraining order, for a short period of time
7 Brandon did not live at his parents' house in Corona. At some point, Brandon showed up
8 and began camping in Michael and Melody's backyard. Eventually, toward the end of 2014,
9 Brandon was living back inside the home.

10 34. Brandon's anger and erratic behavior were out of control by this point. He
11 was punching holes in the walls of his parents' home, sold all his belongings, and routinely
12 stole from his parents.

13 **B. In September 2015, Brandon kills three people after being released early from a**
14 **72-hour hold.**

15 35. On September 13, 2015 Brandon choked Melody, causing extensive bruising
16 and swelling on her neck. Due to Corona Police Department's prior apathy to Brandon
17 following his attack on Michael, the family did not call police.

18 36. Two days later, on September 15, 2015, Brandon again tried to kill Melody,
19 this time holding scissors to her neck, rambling that he will never play baseball so long as
20 Michael and Melody were alive. Brandon's brother, Sean, was able to wrestle Brandon away
21 from Melody, and scared him away with a golf club. Brandon retreated to his room.

22 37. Brandon's cousin, Plaintiff Michael Andersen, along with several other family
23 members, were called to the Martin house following the incident. Upon his arrival, Michael
24 Andersen called the Corona Police Department and reported that Brandon had attempted
25 to kill Melody with scissors, that Brandon was erratic and believed he would never play
26 baseball again unless Melody and Michael Martin were dead. Michael Anderson also
27 reported the choking incident two days prior, including that Melody's neck was still
28



1 swollen and bruised. Michael Andersen advised the Corona Police Department about the
2 prior restraining order that Michael Martin had taken out against Brandon, and that
3 Brandon had weapons in his room, albeit not guns. The phone call with the Corona Police
4 Department lasted about 30 minutes before the police arrived at the home.

5 38. Corona Police Department Officers, including Officer Lopez, arrived at the
6 house. Brandon was taken away. Officer Lopez stayed at the house to explain that the
7 Corona Police Department would not be arresting Brandon, but they were placing a 72-
8 hour hold pursuant to Welfare & Institutions Code section 5150 for a mental health
9 evaluation. Melody and the rest of the family were upset, and scared that Brandon would
10 not be arrested, and asked Officer Lopez for an emergency restraining order. Officer Lopez
11 advised Melody she would have to make that request to the court.

12 39. Later that day, on September 15, 2015 Brandon was taken by the Corona
13 Police Department to Riverside Mental Health, located at 9990 County Barn Road, Suite 2,
14 in Riverside, California.

15 40. On September 16, 2015, Riverside Mental Health called Melody to advise her
16 that there was overcrowding at the facility and Brandon was in the waiting room, and was
17 going to be released.

18 41. Knowing that Brandon would not be held indefinitely and the Corona Police
19 Department had been unwilling to arrest Brandon, Melody called ADT LLC to install an
20 alarm at her Corona house to protect herself and her family.

21 42. On September 17, 2015, Riverside Mental Health advised Melody that
22 Brandon was being released. Brandon had never been assigned a room. Melody pleaded
23 with them not to release Brandon since Brandon was dangerous. Melody's pleas were
24 unsuccessful. Melody then called her brother, Ricky Andersen, to see if he could persuade
25 Riverside Mental Health not to release Brandon. Ricky Andersen's phone records show he
26 called Riverside Mental Health twice, however Brandon was released on September 17,
27 2015 prior to expiration of the 72-hour hold he was supposed to be placed on pursuant to
28 section 5150.



1 43. On information and belief, Brandon had never been given a room at
2 Riverside Mental Health, and did not receive treatment or evaluations from Riverside
3 Mental Health, as they were required to do pursuant to Welfare & Institutions Code section
4 5150, *et seq.* Rather, Brandon was released because that facility claimed it was too crowded
5 to keep Brandon.

6 44. Following Brandon's release from Riverside Mental Health, Ricky Andersen
7 went to Michael and Melody's house to protect wheelchair-bound Michael from Brandon in
8 the event he showed up. Melody was at work. Unbeknownst to the family, Riverside
9 Mental Health provided Brandon a bus pass to return to his parents' home despite his
10 verbalized intent to kill them.

11 45. The afternoon of September 17, 2015, ADT LLC's independent contractor
12 installer, Barry Swanson, arrived at the Martin's Corona home to install a home alarm
13 system.

14 46. Sometime later, Brandon arrived at the house. Plaintiff Michael Andersen
15 was talking to his son Ricky on the phone. Ricky Anderson abruptly hung up after telling
16 Michael Andersen that Brandon had arrived and gone into the house. Upon information
17 and belief, Brandon first brutally attacked his father with a baseball bat, smashing his head
18 and killing him instantly. Barry Swanson heard the attack on Michael, and tried to
19 intervene. Barry was unable to stop the attack and was also beat and killed by Brandon
20 with the baseball bat. Ricky Anderson was struck from behind with the baseball bat and
21 dragged into the garage of the house, where he was left to die.

22 47. Following the vicious attacks, Brandon stole jewelry, car keys, Barry
23 Swanson's wallet, and cell phones before leaving in Michael Martin's truck with the family
24 dog. Brandon disposed of the cell phones so he could not be traced.

25 48. Plaintiff Michael Andersen showed up to the house and discovered the grisly
26 scene. Ricky Andersen, although gravely injured, was still alive and was transported to the
27 hospital. The other men were pronounced dead at the scene. Ricky Andersen died two days
28 later.



FIRST CAUSE OF ACTION

Negligence per se for failure to perform mandatory duty (Gov. Code § 815.6)

FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS THE COUNTY OF RIVERSIDE, THE CITY OF CORONA AND DOES 1-50 FOR PUBLIC ENTITY LIABILITY FOR FAILURE TO PERFORM A MANDATORY DUTY, PLAINTIFFS' ALLEGE:

49. Plaintiffs refer to each and every one of the above paragraphs, and incorporate those paragraphs as though set forth in full in this cause of action.

50. Plaintiffs allege this cause of action pursuant to California Government Code § 815.6 which states "where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty."

51. Plaintiffs were harmed because employees of the County of Riverside and City of Corona and Does 1-50 violated their mandatory duties specified in California Welfare and Institutions Code sections 5150, 5150.2 and 5152.

52. Section 5150 subsection (a) requires the facility where a person is taken into custody for a hold not to exceed 72 hours provides that "[a]t a minimum... evaluation, as defined in subdivision (a) of Section 5008, shall be conducted and provided on an ongoing basis." Evaluation "consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals..." (Cal. Welf. & Inst. Code § 5008(a).)

53. Section 5150, subsection (c) requires that the facility "shall assess the person to determine whether he or she can be properly served without being detained."

54. Section 5150.2 requires "[e]ach county shall establish disposition procedures and guidelines with local law enforcement agencies as necessary to relate to



1 persons not admitted for evaluation and treatment and who decline alternative mental
2 health services...."

3 55. Section 5152, subsection (a) requires that:

4 Each person admitted to a facility for 72-hour treatment and evaluation
5 under the provisions of this article *shall receive* an evaluation as soon as
6 possible after he or she is admitted and *shall receive* whatever treatment
7 and care his or her condition requires for the full period that he or she is
8 held. The person shall be released before 72 hours have elapsed *only* if the
9 psychiatrist directly responsible for the person's treatment believes, as a
10 result of the psychiatrist's personal observations, that the person no longer
11 requires evaluation or treatment. However, in those situations in which
12 both a psychiatrist and psychologist have personally evaluated or
13 examined a person who is placed under a 72-hour hold and there is a
14 collaborative treatment relationship between the psychiatrist and
15 psychologist, either the psychiatrist or psychologist may authorize the
16 release of the person from the hold, but only after they have consulted
17 with one another.

18 (*Id.* (emphasis added).)

19 56. Section 5152, subsection (b) further requires that "[a]ny person who has
20 been detained for evaluation and treatment shall be released, referred for further care
21 and treatment on a voluntary basis, or certified for intensive treatment, or a conservator
22 or temporary conservator shall be appointed pursuant to this part as required."

23 57. Plaintiffs were harmed because unknown employees of the County of
24 Riverside and/or City of Corona failed to comply with their mandatory duties as
25 follows:

- 26 a) failed to provide at a minimum, evaluation of Brandon Martin on an
27 ongoing basis;
28 b) failed to provide Brandon Martin with multidisciplinary
professional analysis of his medical, psychological, and social
conditions by a properly qualified professional;



- c) failed to assess Brandon Martin to determine whether he could be properly served without being detained;
- d) failed to establish disposition procedures and guidelines with local law enforcement agencies as necessary relating to persons such as Brandon Martin who are not admitted for evaluation and treatment;
- e) failed to provide Brandon Martin with an evaluation as soon as possible after he was admitted to Riverside Mental Health;
- f) failed to provide Brandon Martin with whatever treatment and care his condition required for the full period he was held;
- g) allowed Brandon Martin to be released prior to expiration of 72 hours without being seen by psychiatrist directly responsible for his treatment;
- h) allowed Brandon Martin to be released prior to expiration of 72 hours for reasons other than his treating psychiatrist's personal observations that Brandon Martin no longer required evaluation or treatment; and
- i) failed to refer Brandon Martin for further care upon his release.

58. The failure of employees of the County of Riverside and City of Corona and Does 1-50 to perform these mandatory duties as proscribed by Sections 5150, 5150.2 and 5152, were a substantial factor in causing Plaintiffs' harm. Each of these statutes were enacted to protect not only the person subject to the hold, but also to the public at large if the person "is a danger to others." (Welf. & Inst. Code §§ 5150(a), 5150(e), 5150.05(a).)

59. Had the provisions of Sections 5150, 5150.2 and 5152 been complied with as the County of Riverside and City of Corona and Does 1-50 were required to do, Brandon Martin, who posed a danger to others, would not have been released to the unsuspecting public and allowed to murder Michael Martin, Barry Swanson and Ricky



1 Andersen. These statutes were enacted to protect the public from the kind of harm
2 Brandon Martin inflicted on the decedents.

3 60. The actions of the employees of the County of Riverside and City of
4 Corona and Does 1-50 in failing to comply with their mandatory duties were a direct
5 and proximate cause of the damages as alleged herein to Plaintiffs and decedents.

6 61. As a direct and proximate result of Defendant County of Riverside's and
7 City of Corona's and Does 1-50's acts as set forth above, the Swansons have suffered the
8 loss of Barry Swanson's love companionship, comfort, care, assistance, protection,
9 affection, society, moral support, training and guidance.

10 62. The Swansons have suffered the following economic damages as a result
11 of the death of their father in an amount according to proof:

- 12 A. Funeral and burial expenses;
13 B. The value of financial support that Barry Swanson would have provided
14 their children during their life expectancies; and
15 C. The loss of gifts or benefits that the Swansons would have expected to
16 receive from Barry Swanson.

17 63. As a direct and proximate result of Defendants County of Riverside's and
18 City of Corona's and Does 1-50's acts as set forth above, the Andersens have suffered
19 the loss of Ricky Andersen's love companionship, comfort, care, assistance, protection,
20 affection, society, moral support, training and guidance.

21 64. The Andersens have suffered the following economic damages as a result
22 of the death of their father in an amount according to proof:

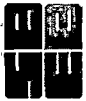
- 23 A. Funeral and burial expenses;
24 B. The value of financial support that Ricky Andersen would have provided
25 their children during their life expectancies; and
26 C. The loss of gifts or benefits that the Andersen would have expected to
27 receive from Ricky Andersen.

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67. Likewise, as a further proximate result of the aforementioned conduct of defendants County of Riverside, City of Corona, and Does 1-50, the Andersens, as successors-in-interest to Decedent Ricky Andersen, bring a claim for the recoverable damages Ricky Andersen sustained or incurred before his death pursuant to California Code of Civil Procedure sections 377.30 and 377.34.

Negligent Hiring, Supervision, or Retention (Gov. Code §§ 815.2 and 820)

69. Plaintiffs allege this cause of action pursuant to Government Code sections 815.2 and 820. Government Code section 815.2, subsection (a) states that a "public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment if the act or omission would, apart from this section, have given rise to a cause of action against that employee or personal representative." Government Code section 820, subsection (a)



1 provides that "a public employee is liable for injury caused by his act or omission to the
2 same extent as a private person."

3 70. Plaintiffs were harmed because the County of Riverside and City of
4 Corona and their employees, including Does 1-50, inclusive, and the County of
5 Riverside violated Welfare and Institutions Code sections 5150, 5150.2, 5150.05 and
6 5152. The County of Riverside and City of Corona are responsible for that harm
7 because they each negligently hired, supervised, and retained their employees,
8 including Does 1-50, inclusive.

9 71. The County of Riverside and City of Corona failed to properly supervise
10 and train their employees, including Does 1-50, inclusive, in their mandated duties
11 pursuant to Sections 5150, 5150.2, and 5152 and performing these mandated duties.

12 72. The County of Riverside and City of Corona hired their employees,
13 including Does 1-50, inclusive, while these employees were unfit and incompetent, or
14 became unfit or incompetent, to perform the work for which they were hired. The
15 County of Riverside and City of Corona knew or should have known that their
16 employees, including Does 1-50, inclusive, were unfit or incompetent, or became unfit
17 or incompetent, and that this unfitness or incompetence created a particular risk to
18 others.

19 73. The unfitness or incompetence of the County of Riverside and City of
20 Corona employees, including Does 1-50, inclusive, harmed Plaintiffs in that it led to the
21 deaths of their fathers and the County of Riverside's and City of Corona's negligence in
22 hiring, supervising, or retaining its aforementioned employees including Does 1-50,
23 inclusive, was a substantial factor in causing Plaintiffs' harm.

24 74. As a direct and proximate result of the County of Riverside and City of
25 Corona's and Does 1-50's negligent hiring, supervision and retention as set forth above,
26 the Swansons have suffered the loss of Barry Swanson's love companionship, comfort,
27 care, assistance, protection, affection, society, moral support, training and guidance.

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1 75. The Swansons have suffered the following economic damages as a result
2 of the death of their father in an amount according to proof:

3 A. Funeral and burial expenses;

4 B. The value of financial support that Barry Swanson would have provided
5 their children during their life expectancies; and

6 C. The loss of gifts or benefits that the Swansons would have expected to
7 receive from Barry Swanson.

8 76. As a direct and proximate result of the County of Riverside and City of
9 Corona's and Does 1-50's negligent hiring, supervision and retention as set forth above,
10 the Andersens have suffered the loss of Ricky Andersen's love companionship, comfort,
11 care, assistance, protection, affection, society, moral support, training and guidance.

12 77. The Andersens have suffered the following economic damages as a result
13 of the death of their father in an amount according to proof:

14 A. Funeral and burial expenses;

15 B. The value of financial support that Ricky Andersen would have provided
16 their children during their life expectancies; and

17 C. The loss of gifts or benefits that the Andersen would have expected to
18 receive from Ricky Andersen.

19 78. The Andersens, as successors-in-interest to the estate of Ricky Andersen,
20 also incurred ambulance and other medical expenses as a result of Ricky Andersen's
21 hospitalization prior to passing away.

22 79. As a further proximate result of the aforementioned conduct of the
23 defendants County of Riverside, City of Corona, and Does 1-50, the Swansons, as
24 successors-in-interest to Decedent Barry Swanson, bring a claim for the recoverable
25 damages Barry Swanson sustained or incurred before his death pursuant to California
26 Code of Civil Procedure sections 377.30 and 377.34.

27 80. Likewise, as a further proximate result of the aforementioned conduct of
28 defendants County of Riverside, City of Corona, and Does 1-50, the Andersens, as

1 successors-in-interest to Decedent Ricky Andersen, bring a claim for the recoverable
2 damages Ricky Andersen sustained or incurred before his death pursuant to California
3 Code of Civil Procedure sections 377.30 and 377.34.

4
5 **THIRD CAUSE OF ACTION**

6 **Negligence**

7 FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS ADT LLC d/b/a
8 ADT SECURITY SERVICES, HOME DEFENDER, INC., AND DOES 51-100 FOR
9 NEGLIGENCE, PLAINTIFFS' ALLEGE:

10 81. Plaintiffs refer to each and every one of the above paragraphs, and
11 incorporate those paragraphs as though set forth in full in this cause of action.

12 82. On information and belief, plaintiffs were harmed by the negligence of
13 ADT LLC, Home Defender, Inc., and Does 51-100, inclusive, in that they had actual and
14 contemporaneous knowledge of the September 17, 2015 attacks taking place—and even
15 have recordings of the attacks—but failed to notify authorities of the attack despite
16 purporting to be an alarm and security company.

17 83. ADT LLC, Home Defender, Inc., and Does 51-100, inclusive, are in the
18 business of and hold themselves out as being security companies who assume a duty to
19 alert authorities upon receiving notice of a break-in or attack. Despite this, ADT LLC,
20 Home Defender, and Does 51-100, inclusive, failed to notify any authority or take any
21 action upon receipt of actual knowledge of the attack that led to the death of Michael
22 Martin, Barry Swanson, and Ricky Andersen.

23 84. By holding themselves out as experts in the security and home defense
24 industry and by promising to notify authorities once notice of a break in or attack is
25 received, ADT LLC, Home Defender, Inc., and Does 51-100, inclusive, assumed and
26 owed a duty to decedents and Plaintiffs to notify authorities of the attack. ADT LLC,
27 Home Defenders, Inc., and Does 51-100, inclusive, breached that duty by failing to
28

1 notify authorities or take any action once it had actual knowledge of the on-going
2 attack.

3 85. As a direct and proximate result of ADT LLC, Home Defenders, Inc., and
4 Does 51-100, inclusive, acts as set forth above, the Swansons have suffered the loss of
5 Barry Swanson's love companionship, comfort, care, assistance, protection, affection,
6 society, moral support, training and guidance.

7 86. The Swansons have suffered the following economic damages as a result
8 of the death of their father in an amount according to proof:

9 A. Funeral and burial expenses;

10 B. The value of financial support that Barry Swanson would have provided
11 their children during their life expectancies; and

12 C. The loss of gifts or benefits that the Swansons would have expected to
13 receive from Barry Swanson.

14 87. As a direct and proximate result of ADT LLC, Home Defenders, Inc., and
15 Does 51-100, inclusive, acts as set forth above, the Andersens have suffered the loss of
16 Ricky Andersen's love companionship, comfort, care, assistance, protection, affection,
17 society, moral support, training and guidance.

18 88. The Andersens have suffered the following economic damages as a result
19 of the death of their father in an amount according to proof:

20 A. Funeral and burial expenses;

21 B. The value of financial support that Ricky Andersen would have provided
22 their children during their life expectancies; and

23 C. The loss of gifts or benefits that the Andersen would have expected to
24 receive from Ricky Andersen.

25 89. The Andersens, as successor-in-interest to the estate of Ricky Andersen,
26 also incurred ambulance and other medical expenses as a result of Ricky Andersen's
27 hospitalization prior to passing away.

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91. Likewise, as a further proximate result of the aforementioned conduct of defendants County of Riverside, City of Corona, and Does 1-50, the Andersens, as successors-in-interest to Decedent Ricky Andersen, bring a claim for the recoverable damages Ricky Andersen sustained or incurred before his death pursuant to California Code of Civil Procedure sections 377.30 and 377.34.

A. Plaintiffs Jeremy Swanson, Josh Swanson, and Lesli Swanson-Harvey

1. For all recoverable wrongful death noneconomic damages for loss of love, companionship, comfort, care, assistance, protection, affection, society, moral support, training and guidance of Barry Swanson all in an amount to be proven at the time of trial;
2. For all recoverable wrongful death economic damages including loss of economic support and loss of household services and loss of gifts and benefits that each Plaintiff would have been expected to receive from Barry Swanson in an amount to be proven at the time of trial;
3. For all the recoverable damages Barry Swanson suffered or incurred before his death pursuant to California Code of Civil Procedure sections 377.30 and 377.34.
4. For all other general and special damages to the extent permitted by law;



- 1 5. For costs of suit incurred herein; and
- 2 6. For such other and further relief as this court may deem just and proper.

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4 **B. Plaintiffs Michael Andersen, Chad Andersen, and Brooke Andersen**

5 WHEREFORE, Plaintiffs Michael Andersen, Chad Andersen, and Brooke
6 Andersen pray for damages against Defendants, and each of them, as follows:

- 7 1. For all recoverable wrongful death noneconomic damages for loss of love,
8 companionship, comfort, care, assistance, protection, affection, society,
9 and moral support of Ricky Andersen all in an amount to be proven at the
10 time of trial;
- 11 2. For all recoverable wrongful death economic damages including loss of
12 economic support and loss of household services and loss of gifts and
13 benefits that each Plaintiff would have been expected to receive from
14 Ricky Andersen in an amount to be proven at the time of trial;
- 15 3. As successors-in-interest to the estate of Ricky Andersen, also incurred
16 ambulance and other medical expenses as a result of Ricky Andersen's
17 hospitalization prior to passing away;
- 18 4. For all the recoverable damages Ricky Anderson sustained or incurred
19 before his death pursuant to California Code of Civil Procedure sections
20 377.30 and 377.34 for damages decedent sustained or incurred before
21 death.
- 22 5. For all other general and special damages to the extent permitted by law;



1 6. For costs of suit incurred herein; and

2 7. For such other and further relief as this court may deem just and proper.

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5 Dated: September 12 2016

SHERNOFF BIDART ECHEVERRIA, LLP

PANISH SHEA & BOYLE, LLP

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9 By _____

MICHAEL J. BIDART
RICARDO ECHEVERRIA
Attorneys for Plaintiffs

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14 DEMAND FOR JURY TRIAL

15 Plaintiffs hereby demand a jury trial.

16
17 Dated: September 12 2016

SHERNOFF BIDART ECHEVERRIA, LLP

PANISH SHEA & BOYLE, LLP

18
19
20
21 By _____

MICHAEL J. BIDART
RICARDO ECHEVERRIA
Attorneys for Plaintiffs